IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 12776 of 2004

Between:

K.Bhaskara Chary, s/o.K.Chengalraya Chary,
O/o.the Sub-Divisional Emgineer ,BSNL (Groups) Naidupeta,

Nellore District, A.P.State.

..... PETITIONER

AND

1 The Dy.General Manager, BSNL, (Operations), Gudur.
2 The General Manager, BSNL Nellore.
3 The Chief General Manager, Telecom, A.P.Circle, Hyderabad.
4 The Chairman & Managing Director, BSNL, New Delhi.

5 The District Collector, Nellore District, Nellore

(R5 is impleaded as per Court Order dated 3.12.2004 in W.P.M.P.No.28522 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more in the nature of mandamus declaring the initiation of disciplinary proceedings vide Memo.No.DGM(OP)/GUD/Disc/ KBR(R-14)/2003-2004 dated 10-4-2003 issued by the Deputy General Manger (OP), BSNL, Gudur and proceedings with inquiry into caste certificate etc. pursuant to the said charge Memo. dated 10-4-2003 as illegal, arbitrary, unjust void and without jurisdiction and violative of Articles 14, 16 and 21 of the constitution and consequently held that the petitioner is entitled to continue as Telephone supervisor (O) with all consequential benefits.

Counsel for the Petitioner:MR.K.VENKATESWARA RAO

Counsel for the Respondents 1 to 4 : MR.KANTHI.NARAHARI, STANDING COUNSEL

Counsel for the Respondents 5 : GOVERNMENT PLEADER FOR SOCIAL WELFARE

The Court made the following :

ORDER:

This writ petition is filed to issue a writ of mandamus declaring the initiation of disciplinary proceedings vide Memo No.DGM (OP)/GUD/Disc/KBR(R-14)/2003-2004 dated 10.4.2003 issued by the Deputy General Manager (OP), BSNL, Gudur pursuant to the said Charge Memo dated 10.4.2003 as illegal, arbitrary, unjust and void.

The learned counsel appearing for the petitioner vehemently contended that the caste certificate of the petitioner has not been cancelled by the competent authority, in accordance with law, and therefore, the allegation that the petitioner produced the false certificate, cannot be a basis for initiation of proceedings against the petitioner to take departmental action and therefore, the impugned proceedings are nothing

but abuse of process of law. Hence, prays to quash the said proceedings.

On the other hand, the learned Government Pleader contended that the enquiry with regard to the caste certificate of the petitioner is pending with the District Collector who is the competent authority to make an enquiry with regard to the social status of the petitioner and therefore, necessary direction may be given to the District Collector to conduct the enquiry and thereafter, basing on the decision of the District Collector, the departmental proceedings can be proceeded.

The learned counsel appearing for the first respondent contended that the respondent will follow the orders of the District Collector and till then, the enquiry would not be proceeded.

The facts are not in dispute. On the allegation of producing false caste certificate, a charge sheet dated 10.4.2003 was issued as the production of false certificate is contrary to the Sub-Rule I(III) of Rule-3 of CCS (Conduct) Rules, 1964. Thereafter, written statement had been filed by the writ petitioner. Basing on the allegations, the disciplinary authority initiated action against the writ petitioner. It is not for the disciplinary authority to take any decision with regard to the social status certificate. The District Collector is the competent authority to determine the social status of a particular person and as a matter fact, an inquiry had been conducted by the District Collector and it seems to be over. Final orders have to be passed by the District Collector. Therefore, the matter is subjudice with the District Collector. Hence, the District Collector can be directed to conduct the enquiry, if not already conducted, after giving reasonable opportunity to the writ petitioner to claim his social status before him. Till then, no disciplinary proceedings should be proceeded with.

Accordingly, the writ petition is disposed of with a direction to the District Collector to conduct enquiry if it is pending with him, within a period of two months from the date of receipt of a copy of this order. Till then, no departmental proceedings should be proceeded further.

06.12.2004

Note: Furnish C.C by day after tomorrow

(B.O)

bsv

To

1 The Dy.General Manager, BSNL, (Operations), Gudur.
2 The General Manager, BSNL Nellore.
3 The Chief General Manager, Telecom, A.P.Circle, Hyderabad.
4 The Chairman & Managing Director, BSNL, New Delhi.

5. 2 CCs to the Government Pleader for Social Welfare, High Court Buildings., A.P., Hyderabad

6. 2 CD copies